

§ 102–38.355 Do the regulations of this part apply to State Agencies for Surplus Property (SASPs) when conducting sales?

Yes, State Agencies for Surplus Property (SASPs) must follow the regulations in this part when conducting sales on behalf of the General Services Administration of Government personal property in their custody.

Subpart H—Implementation of the Federal Asset Sales Program

SOURCE: 73 FR 20803, Apr. 17, 2008, unless otherwise noted.

§ 102–38.360 What must an executive agency do to implement the eFAS program?

(a) An executive agency must review the effectiveness of all sales solutions, and compare them to the effectiveness (e.g., cost, level of service, and value added services) of the eFAS SCs. Agencies should give full consideration to sales solutions utilizing private sector entities, including small businesses, that are more effective than the solutions provided by any eFAS-approved SC. If the agency decides that there are more effective sales solutions than those solutions offered by the eFAS SCs, the agency must request a waiver from the milestones using the procedures and forms provided by the eFAS Planning Office. Waivers will be approved by the eFAS Planning Office upon presentation of a business case showing that complying with an eFAS milestone is either impracticable or inefficient. Waiver approval will be coordinated with GSA's Office of Travel, Transportation, and Asset Management. Contact the eFAS Planning Office at FASPlanningOffice@gsa.gov to obtain these procedures and forms.

(b) An approved waiver for meeting one of the eFAS milestones does not automatically waive all milestone requirements. For example, if an agency receives a waiver to the migration milestone, the agency must still (1) post asset information on the eFAS Web site and (2) provide post-sales data to the eFAS Planning Office in accordance with the content and format requirements developed by the eFAS ESC, unless waivers to these mile-

stones are also requested and approved. Waivers to the eFAS milestones will not be permanent. Upon expiration of the waiver to the migration milestone, an agency must either migrate to an approved SC, or serve as a fully functioning SC, as soon as practicable. See the definition of a "Sales Center" at § 102–38.35 for an overview of how agency sales solutions become SCs.

(c) An agency which receives a waiver from the eFAS milestones must comply with subparts A through G of this part as if it were an SC.

(d) An executive agency must comply with all eFAS milestones approved by OMB including those regarding the completion of an agency-wide sales migration plan, the reporting of pre- and post-sales data, and the migration to approved SCs unless a waiver has been submitted by the agency and approved by the eFAS Planning Office. The eFAS milestones are available for viewing at <http://www.gsa.gov/govsalesmilestones>.

§ 102–38.365 Is a holding agency required to report property in "scrap" condition to its selected SC?

No. Property which has no value except for its basic material content (scrap material) may be disposed of by the holding agency by sale or as otherwise provided in § 102–38.70. However, the holding agency should consult the SC(s) selected by the holding agency as to the feasibility of selling the scrap material. Agencies selling scrap property under authority of this subpart are still required to report sales metrics in accordance with eFAS ESC-approved format and content.

§ 102–38.370 What does a holding agency do with property which cannot be sold by its SC?

All reasonable efforts must be afforded the SC to sell the property. If the property remains unsold after the time frame agreed to between the SC and the holding agency, the holding agency may dispose of the property by sale or as otherwise provided in § 102–38.70. The lack of public interest in buying the property is evidence that the sales proceeds would be minimal.

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Agencies selling property under authority of this subpart are still required to report sales metrics in accordance with eFAS ESC-approved format and content.

PART 102-39—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

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AUTHORITY: 40 U.S.C. 121(c); 40 U.S.C. 503.

SOURCE: 66 FR 48614, Sept. 21, 2001, unless otherwise noted.

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Subpart A—General

§ 102-39.5 What is the exchange/sale authority?

The exchange/sale authority is a statutory provision, (40 U.S.C. 503), which states in part: “In acquiring personal property, an executive agency may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in whole or in part payment for the property acquired.”

[73 FR 50880, Aug. 29, 2008]

§ 102-39.10 What does this part cover?

This part covers the exchange/sale authority, and applies to all personal property owned by executive agencies worldwide. For the exchange/sale of aircraft parts and hazardous materials, you must meet the requirements in this part and in parts 101-33 and 101-42 of this title.

[66 FR 48614, Sept. 21, 2001, as amended at 69 FR 11539, Mar. 11, 2004]

§ 102-39.15 How are the terms “I” and “you” used in this part?

Use of pronouns “I” and “you” throughout this part refer to executive agencies.

[66 FR 48614, Sept. 21, 2001. Redesignated at 73 FR 50880, Aug. 29, 2008]

§ 102-39.20 What definitions apply to this part?

The following definitions apply to this part:

Acquire means to procure or otherwise obtain personal property, including by lease (sometimes known as rent).

Combat material means arms, ammunition, and implements of war listed in the U.S. munitions list (22 CFR part 121).

Excess property means any personal property under the control of any Federal agency that is no longer required for that agency’s needs or responsibilities, as determined by the agency head or designee.

Exchange means to replace personal property by trade or trade-in with the supplier of the replacement property.

Exchange/sale means to exchange or sell non-excess, non-surplus personal